9. Employment: hiring and managing talent

Key Terms

**Age Discrimination in Employment Act (ADEA):** Afederal law that prohibits discrimination in all facets of employment based on a person being over 40 years of age.

**Americans with Disabilities Act 1990 (ADA):** A federal law that prohibits discrimination against individuals with disabilities in all facets of public life including jobs, schools, and transportation. Title I applies to employment and is designed to help those with disabilities access the same employment opportunities and benefits as those without disabilities.

**At-will employee:** Can be fired at any time, for any reason, unless that reason is illegal or violates public policy, and employees may also quit with or without notice at any time.

**Bargaining unit:** A group of employees that do similar work and share similar issues and concerns when it comes to working conditions. A bargaining unit can make up the entire union, or a bargaining unit can be one small part of a larger union comprised of many bargaining units.

**Collective bargaining agreement** **(CBA):** A negotiated contract that covers all of the terms of employment for the members of that bargaining unit, such as pay, hours, conditions for promotion, employee discipline, raises, termination, health insurance, benefits, and vacation time.

**Disparate impact:** Alegal claim under Title VII whereby an employee challenges a rule or policy that does not look discriminatory, but in practice adversely affects a protected class, affected employees.

**Disparate treatment:** A legal claim under Title VII whereby a worker alleges that they are being treated less favorably because of their protected class trait.

**Employee separation agreements:** Agreementsusually signed during the exit interviewand may coverseverance pay if any, along with a host of other clauses, which may include: a pledge of future cooperation, non-disparagement of the company, confidentiality of company information, noncompetition with the company, and most critically, a release from any present, or future claims against the company.

**Equal Employment Opportunity Commission (EEOC):** A federal agency established by the Civil Rights Act with the authority to investigate claims of employment discrimination, mediate disputes, and sue on behalf of injured parties.

**Fair Labor Standards Act:** Federal law that guarantees a minimum wage for many categories of workers, requires overtime pay, and regulates child labor.

**Family and Medical Leave Act** **(FMLA):** Federal law that entitles many workers twelve weeks of unpaid leave for the birth, adoption, or foster care placement of a child, or the serious medical condition of themselves or an immediate family member.

**Fiduciary duty:** A legal duty wherebyemployees are obligated to act on behalf of the employer and put their needs second to those of their employer.

**Forfeiture agreement:** An agreement whereby non-salary compensation (such as bonuses, stock, stock options, and so forth) paid out during a specified period will be forfeited if an employee leaves to work for a competitor.

**Grievance:** A procedure for internal dispute resolution involving the employee, union representation, and the employer’s management team.

**H1-B visas:** Are temporary work permits allocated to high-skill workers in specialty occupations.

**Independent contractor:** An independent contractor is distinguished from an employee by the amount of control the hiring business has over them.

**Independent contractor agreement:** An agreement between a worker and business clarifying the employment relationship as an independent contractor relationship.

**Innovator’s Patent Agreement (IPA):** An agreement wherebythe creator/inventor retains partial control of the patent and assigns the patent to the company but the company makes important promises in return.

**Lawful strikes:** Authorized by the NLRA, are either economic strikes usually involving economic issues like higher wages or better working conditions, or strikes for unfair labor practices, that is a practice that violates the NLRA, such as retaliating against an employee for joining a union.

**National Labor Relations Act (NLRA):** Federal law that guarantees the right of employees to organize, form unions, and bargain collectively with their employers. The law ensures that workers have a choice on whether to belong to a union, and promotes collective bargaining to insure peaceful industry-labor relations.

**National Labor Relations Board (NLRB):** Federal board that arbitrates deadlocked labor-management disputes, guarantee democratic union elections, and penalize employers for unfair labor practices.

**Negligent hiring:** A legal claim made by an injured party against an employer alleging the employer knew or should have known about the independent contractor’s background which, if known, indicated a dangerous or untrustworthy character.

**Negligent supervision:** Failure to supervise a person in a responsible manner.

**No poaching agreement:** An agreement whereby competing businesses agree among themselves to not hire each other’s employees.

**Noncompete agreement (NCA):** Is a type of contract or clause in a contract that limits where and when a former employee can work once they leave their job or after their business is sold.

**Nondisclosure agreement** **(NDA):** An agreement prohibiting disclosure of proprietary or sensitive business information by current or former workers.

**Non-solicitation agreement (NSA):** An agreement wherebyemployees agree that during the term of employment and for a designated time thereafter, they will not solicit coworkers, customers, prospective customers, or company vendors when they leave the company for another employer.

**Occupational Safety and Health Administration (OSHA):** A federal agency charged with ensuring safe and healthy workplaces through establishing and enforcing standards, performing inspections, outreach, training, and assistance.

**Respondeat superior:** Theory of liability wherea business is liable for the physical torts of its employees if they were acting within the scope of their employment at the time that they caused the injury.

**Statement of employment particulars:** Used in the EU, awritten employment agreement which covers topics like pay, title, and expected hours of work.

**Stereotype:** A framework through which we judge other people based on their social category, such as age, gender, or ethnicity, and then we view that person as interchangeable with any other person in that category.

**Strikes:** Mass work stoppages usually in response to employee grievances.

**Temporary (temp) workers:** Not employed by the company, but rather by a staffing agency; agencies screen, employ, and handle payroll and taxes for temp workers, who take direction from and report to the client company.

**Title VII of the Civil Rights Act:** Prohibits discrimination based on race, color, religion, national origin, and gender in all facets of employment based on race, color, national origin, or gender.

**Work for hire agreement:** An agreement that spells out the terms of the work for hire arrangement.

**Work for hire professional:** An employment relationship whereby a person is hired to complete a specific job and assigns all rights to the completed work to the entity hiring them.

**Union:** An organized group of workers who cooperate to make decisions about the terms and conditions of work.

**Unlawful (strike):** A type of strike the purpose of which violates the NLRA.